



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 27, 1994

Mr. Everette D. Jobe
General Counsel
Texas Department of Banking
2601 N. Lamar Boulevard
Austin, Texas 78705-4294

OR94-269

Dear Mr. Jobe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 23959.

The Texas Department of Banking (the "department") has received a request for the financial statements of any owner, shareholder or partner of a certain trust company, any shareholder or partnership agreement of the trust company, and any correspondence relating thereto. The department asserts that this information is excepted from required public disclosure under section 552.101 of the act in conjunction with article 342-401a(B) of the Banking Code.

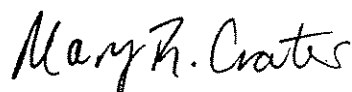
Section 552.101 excepts from required public disclosure information made confidential by statute. Article 342-401a in chapter 4 of the Banking Code governs the transfer of stock of a state bank. Subsection (B)(6) of that article provides in pertinent part that "[i]nformation obtained by the Banking Commissioner under this Article is confidential and may not be disclosed by the Banking Commissioner or any officer or employee of the Banking Department," except that the commissioner has the discretion to divulge such information if he or she "deems it necessary or proper to the enforcement of the laws of this state or the United States and to the best interest of the public." V.T.C.S. art. 342-401a(B)(6). Article 342-1102 provides that a trust company is subject to the provisions of chapter 4 "as if the trust company were a state bank." *Id.* art. 342-1102, § 1.

We have reviewed the information you submitted. Your letter to this office and your letter to the requestor suggest that all of the information was obtained by the department in connection with a change of control of trust application. Assuming that

this is the case, we conclude that the information is confidential under the foregoing provisions of the Banking Code and must not be released except in conformance with them. We note that one document is an internal departmental memorandum. The memorandum itself is not information obtained in connection with the change of control of trust application, but, with the exception of the staff recommendation, it appears to reflect such information. Therefore, the memorandum is also confidential, with the exception of the recommendation, and must not be released except in conformance with the foregoing provisions of the Banking Code. Because you have raised no other exceptions with respect to the recommendation, it must be released.¹ The information that must be released is marked for your convenience.

If you have questions about this ruling, please contact our office.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Open Government Section

MRC/LRD/sbm

Ref.: ID# 23959

Enclosures: Marked documents

cc: Mr. Donald G. Bond, Jr.
4907 Sapling Cove
Austin, Texas 78735
(w/o enclosures)

¹The recommendation does not reflect information about an individual and is not confidential under the doctrine of common law privacy.